

SENATE BILL 726

Unofficial Copy
Q7

1999 Regular Session
9lr2377

By: **Senators Ruben, Munson, Currie, Neall, and Hogan**
Introduced and read first time: February 23, 1999
Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Telecommunications - Taxation**

3 FOR the purpose of excluding certain gross charges from the definition of "gross
4 receipts" subject to the public service company franchise tax; imposing the sales
5 and use tax on the sale of prepaid telephone calling arrangements; specifying
6 when the sale of a prepaid telephone calling arrangement is taxable in the State;
7 exempting from the sales and use tax the use of certain telecommunications
8 services obtained by using a prepaid telephone calling arrangement; exempting
9 from the sales and use tax the sale to or use by certain telecommunications
10 providers of certain machinery or equipment; defining certain terms; and
11 generally relating to the taxation of certain telecommunications services and
12 certain machinery or equipment used by certain telecommunications providers.

13 BY repealing and reenacting, with amendments,
14 Article - Tax - General
15 Section 8-401(b)(3) and 11-101(k)(9) and (10)
16 Annotated Code of Maryland
17 (1997 Replacement Volume and 1998 Supplement)

18 BY adding to
19 Article - Tax - General
20 Section 11-101(c-1) and (k)(11), 11-108, 11-210(d), and 11-219(d)
21 Annotated Code of Maryland
22 (1997 Replacement Volume and 1998 Supplement)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
24 MARYLAND, That the Laws of Maryland read as follows:

25 **Article - Tax - General**

26 8-401.

27 (b) (3) "Gross receipts" does not include:

1 (i) any revenue that a public service company derives from an
2 activity other than an electric, gas, oil pipeline, telegraph, or telephone business;

3 (ii) net uncollectible revenue;

4 (iii) gross charges from the sale by a public service company to
5 another public service company subject to the tax imposed by this subtitle of:

6 1. a service or product for resale; or

7 2. natural gas or natural gas delivery service that is used by
8 the other public service company in the generation of electricity; [or]

9 (iv) gross charges from the sale by a public service company of
10 internet access service by which a connection is provided between a computer and the
11 internet; OR

12 (V) GROSS CHARGES FROM THE SALE OF TELECOMMUNICATIONS
13 SERVICE OBTAINED BY USING A PREPAID TELEPHONE CALLING ARRANGEMENT, AS
14 DEFINED IN § 11-101 OF THIS ARTICLE.

15 11-101.

16 (C-1) "PREPAID TELEPHONE CALLING ARRANGEMENT" MEANS THE RIGHT TO
17 USE TELECOMMUNICATIONS SERVICES, PAID FOR IN ADVANCE, THAT ENABLES THE
18 ORIGINATION OF CALLS USING AN ACCESS NUMBER OR AUTHORIZATION CODE,
19 WHETHER MANUALLY OR ELECTRONICALLY DIALED.

20 (k) "Taxable service" means:

21 (9) credit reporting; [or]

22 (10) a security service, including:

23 (i) a detective, guard, or armored car service; and

24 (ii) a security systems service [.]; OR

25 (11) A PREPAID TELEPHONE CALLING ARRANGEMENT.

26 11-108.

27 THE SALE OR RECHARGE OF A PREPAID TELEPHONE CALLING ARRANGEMENT
28 IS TAXABLE IN THE STATE IF:

29 (1) THE SALE OR RECHARGE TAKES PLACE AT THE VENDOR'S PLACE OF
30 BUSINESS LOCATED IN THE STATE;

31 (2) THE BUYER'S SHIPPING ADDRESS IS IN THE STATE; OR

1 (3) THERE IS NO ITEM SHIPPED AND THE BUYER'S BILLING ADDRESS OR
2 THE LOCATION ASSOCIATED WITH THE BUYER'S MOBILE TELEPHONE NUMBER IS IN
3 THE STATE.

4 11-210.

5 (D) (1) (I) IN THIS SUBSECTION, THE FOLLOWING WORDS HAVE THE
6 MEANINGS INDICATED.

7 (II) "TELECOMMUNICATIONS" MEANS THE TRANSMISSION OF
8 INFORMATION OF THE USER'S CHOOSING, BETWEEN OR AMONG POINTS SPECIFIED
9 BY THE USER, WITHOUT CHANGE IN THE CONTENT OF THE INFORMATION AS IT IS
10 SENT AND RECEIVED.

11 (III) 1. "TELECOMMUNICATIONS PROVIDER" MEANS A PROVIDER
12 OF TELECOMMUNICATIONS FOR A FEE TO THE PUBLIC OR TO CLASSES OF USERS
13 MAKING TELECOMMUNICATIONS AVAILABLE DIRECTLY TO THE PUBLIC,
14 REGARDLESS OF THE FACILITIES USED.

15 2. "TELECOMMUNICATIONS PROVIDER" INCLUDES
16 SUBSIDIARIES, AFFILIATES, PARTNERS, AND CO-VENTURERS OF THE PROVIDER OF
17 TELECOMMUNICATIONS.

18 3. "TELECOMMUNICATIONS PROVIDER" DOES NOT INCLUDE
19 A PROVIDER OF TELECOMMUNICATIONS ONLY TO A SINGLE STRUCTURE SUCH AS A
20 HOTEL, AN OFFICE BUILDING, OR AN APARTMENT BUILDING.

21 (2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, THE
22 SALES AND USE TAX DOES NOT APPLY TO THE SALE TO OR USE BY A
23 TELECOMMUNICATIONS PROVIDER OF ANY MACHINERY OR EQUIPMENT, INCLUDING
24 COMPUTER SOFTWARE BUT NOT INCLUDING OFFICE FURNITURE, STANDARD OFFICE
25 EQUIPMENT, OR MOTOR VEHICLES, IF THE EQUIPMENT OR MACHINERY IS RELATED
26 TO THE CONDUCT OF:

27 (I) A TELECOMMUNICATIONS BUSINESS; OR

28 (II) A BUSINESS WHICH OFFERS OR PROVIDES THE USE OF THE
29 COMPUTER AND TELECOMMUNICATIONS FACILITIES, INCLUDING EQUIPMENT AND
30 OPERATING SOFTWARE, WHICH COMPRISE THE INTERCONNECTED WORLDWIDE
31 NETWORK OF NETWORKS THAT EMPLOY THE TRANSMISSION CONTROL
32 PROTOCOL/INTERNET PROTOCOL, OR ANY PREDECESSOR OR SUCCESSOR
33 PROTOCOLS TO THAT PROTOCOL.

34 (3) THE EXEMPTION UNDER THIS SUBSECTION DOES NOT APPLY TO A
35 SALE TO OR USE BY AN INCUMBENT LOCAL EXCHANGE CARRIER, AS DEFINED IN THE
36 FEDERAL TELECOMMUNICATIONS ACT OF 1996, UNLESS THE INCUMBENT LOCAL
37 EXCHANGE CARRIER HAS RECEIVED A DETERMINATION UNDER § 271 OF THAT ACT.

1 11-219.

2 (D) THE SALES AND USE TAX DOES NOT APPLY TO CELLULAR TELEPHONE OR
3 OTHER MOBILE TELECOMMUNICATIONS SERVICE CHARGES OBTAINED BY USING A
4 PREPAID TELEPHONE CALLING ARRANGEMENT.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 July 1, 1999.